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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

No. 71-1324

THE PEOPLE OF THE STATE OF ILLINOIS,
Petitioner,

vs.

UNITED STATES OF AMERICA EX REL, ROBERT J. RAYMOND,
Respondent.

REPLY TO BRIEF IN OPPOSITION.

WILLIAM J. SCOTT,
Attorney General, State of Illinois,
JAMES B. ZAGEL,
Assistant Attorney General,
188 West Randolph Street,
(Suit 2200),
Chicago, Illinois 60601,
Attorneys for Petitioner.

MELBOURNE A. NOEL, JR.,
Assistant Attorney General,
Of Counsel.

THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

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REPLY TO BRIEF IN OPPOSITION.

Petitioner, The People of the State of Illinois, in reply to Respondent's Brief in Opposition to the Petition For Writ of Certiorari, states as follows:

This Court has never acquiesced in any extension of its rule on suppression of evidence announced in *Brady v. Maryland*, 373 U. S. 83 (1963). On the contrary, the Court has just specifically re-affirmed the requirements of the *Brady* rule exactly as they were first written almost ten years ago and, in doing so, has indicated that some defense request for allegedly suppressed information is still a prerequisite to a finding of suppression on review. In *Moore v. Illinois*, ____ U.S. ____ (No. 69-5001, decided June 29, 1972), a case involving alleged prosecution suppression of six items of physical and testimonial evidence at trial, this Court interpreted *Brady* in the following words:

> "The heart of the holding in *Brady* is the prosecution's suppression of evidence, in the face of a defense production request, where the evidence is favorable to the accused and

> is material either to guilt or to punishment. Important, then, are (a) suppression by the prosecution after a request by the defense, (b) the evidence's favorable character for the defense, and (c) the materiality of the evidence. These are the standards by which the prosecution's conduct in Moore's case is to be measured." 11 Crim. L. Rptr. 3379, 3381.

Applying the above standards to the facts of the present case must lead one to conclude that neither the letter nor the spirit of the *Brady* rule was violated by the Illinois prosecutor, who never received any request for disclosure of the results of tests conducted on respondent's clothing until after completion of the trial.

Further, petitioner does not admit that it was under a constitutional duty imposed by *Brady v. Maryland* or any other binding federal decision to disclose the negative results of the clothing tests to respondent or anyone else under the present set of circumstances. As the Court stated in *Moore v. Illinois:*

> "We know of no constitutional requirement that the prosecution make a complete and detailed accounting to the defense of all police investigatory work on a case." 11 Crim L. Rptr. 3382

CONCLUSION

For the foregoing reasons and for the reasons stated in its Petition, petitioner submits that a Writ of Certiorari should be granted to review the adverse decision of the United States Court of Appeals for the Seventh Circuit.

Respectfully submitted,

WILLIAM J. SCOTT
Attorney General
State of Illinois

JAMES B. ZAGEL
Assistant Attorney General
188 W. Randolph Street
(Suite 2200)
Chicago, Illinois 60601

Attorneys for Petitioner

Melbourne A. Noel Jr.
Assistant Attorney General
Of Counsel.